

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Misuse of Internet Protocol (IP) Captioned Telephone Service)	CG Docket No. 13-24
)	
Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities)	CG Docket No. 03-123
)	

To: Secretary, FCC
For: Chief, Consumer & Governmental Affairs Bureau

PETITION FOR WAIVER

Hamilton Relay, Inc. (“Hamilton”), by its counsel and pursuant to Section 1.3 of the Commission’s rules,¹ hereby requests a waiver of certain portions of Section 64.605(a)(2)(iv)² and all of Section 64.605(a)(2)(v)³ of the Commission’s rules, in connection with Hamilton’s web and wireless forms of Internet Protocol Captioned Telephone Service (“IP CTS”), as more fully explained below.⁴ These rules, which were adopted by the Commission on an interim basis in March 2008,⁵ were designed to facilitate emergency call handling by IP CTS providers,

¹ 47 C.F.R. § 1.3.

² *Id.* § 64.605(a)(2)(iv).

³ *Id.* § 64.605(a)(2)(v).

⁴ Hamilton is not seeking a waiver of these rules with respect to its IP CTS telephone offering because that service, which uses the Public Switched Telephone Network, has 911 functionality like any other landline service and therefore does not need to rely on the specific emergency call handling rules set forth in Section 64.605(a)(2). Rather, this waiver request is being filed only with respect to Hamilton’s web and wireless forms of IP CTS which do not function in the same manner as IP CTS telephones.

⁵ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities (E911 Requirements for IP-Enabled Service Providers)*, Report (continued)...

including Hamilton. Hamilton is currently in compliance with these rules. However, as experience has shown, compliance with these interim rules results in a delay in the delivery of emergency calls to Public Safety Answering Points (“PSAPs”),⁶ at the risk of public safety. The waiver that Hamilton is seeking, and which is similar to other pending waiver requests,⁷ would help avoid those delays and thus serve the public interest.

Waiver of Portions of Section 64.605(a)(2)(iv)

Section 64.605(a)(2)(iv) of the Commission’s rules provides that IP CTS providers must deliver to the PSAP, at the outset of the outbound leg of an emergency call, at a minimum, the name of the relay user and location of the emergency, as well as the name of the relay provider, the callback number of the Communications Assistant (“CA”), and the CA’s identification number. Hamilton currently delivers all of this required information to the PSAP at the outset of the outbound leg of an emergency call, through its third party contractor, Intrado.

and Order, 23 FCC Rcd 5255 (2008). The Commission subsequently adopted permanent emergency call handling rules for Video Relay Services (“VRS”) and IP Relay, but not for IP CTS. *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities (Limited Waiver of Emergency Call Handling Requirements)*, Opinion, 23 FCC Rcd 13747, ¶ 4 & n.17 (2008) (noting that the order adopting a permanent emergency call handling rule “applies only to VRS and IP Relay. The Commission stated that it would address issues relating to IP CTS, if appropriate, in a separate order because IP CTS raises distinct technical and regulatory issues.”) (citing *Telecommunications Relay Services And Speech-to-Speech Services For Individuals With Hearing And Speech Disabilities, E911 Requirements For IP-Enabled Service Providers*, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 11591, ¶ 1 n.5 (June 24, 2008)). To date, the Commission has not proposed permanent emergency call handling rules for IP CTS, and thus the interim rules adopted in March 2008 continue to apply to IP CTS providers.

⁶ Commission rules refer to PSAPs, designated statewide default answering points, and local emergency authorities. Such entities are collectively referred to herein as PSAPs.

⁷ *See* Innocation, Inc., Petition for Waiver of Rule, CG Docket No. 03-123 (filed July 1, 2015); CaptionCall, LLC, Petition for Declaratory Ruling or, in the Alternative, Waiver with Respect to 47 C.F.R. § 64.605(a), and for Clarification with Respect to 47 C.F.R. § 64.605(a), CG Docket Nos. 13-24, 03-123 (filed May 18, 2015).

However, in Hamilton's experience over the past eight years of accepting and handling such emergency calls, it has become clear that PSAPs do not find much of this information helpful or even necessary. On the contrary, Hamilton has heard from PSAPs and Intrado that providing this required information simply delays the process of handling the emergency call, thus endangering public safety.

Instead, PSAPs have indicated that the only information they need to receive in an emergency situation is the name of the relay user, the location of the emergency, and the user's callback number. Thus, the name of the relay provider, the CA's identification number, and the CA's callback number are all deemed superfluous information which delays the call. For this reason, Hamilton requests a waiver of Section 64.605(a)(2)(iv) in order to deliver to the PSAP, at the outset of the outbound leg of an emergency call, at a minimum: 1) the relay user's name; 2) the location of the emergency; and 3) the *user's* callback number.⁸

Waiver of All of Section 64.605(a)(2)(v)

Section 64.605(a)(2)(v) of the Commission's rules provides that, in the event one or both legs of an emergency call are disconnected (i.e., either the call between the relay user and the CA, or the outbound voice telephone call between the CA and the PSAP), an IP CTS provider must immediately re-establish contact with the TRS user and/or the appropriate PSAP and resume handling the call. Hamilton currently complies with this rule by ensuring that a CA, working through Intrado, can re-establish contact with the user and/or PSAP and resume handling the call.

⁸ As noted below, the CA's callback number is unnecessary because CAs should not be making subjective determinations as to when and how to re-establish emergency calls. Such determinations should be made by the PSAP and/or the relay user.

However, compliance with this requirement has proven to be both difficult and, ultimately, unnecessary. As an initial matter, it is difficult to comply with this requirement because it is not always apparent whether an emergency call has simply ended and disconnected in the normal course, or whether it has been prematurely disconnected. This has led to a level of subjectivity which imposes a difficult obligation on the part of the CA to determine whether an emergency call has really ended (through either party, or both parties, intentionally hanging up), in which case the call should not be re-established because at least one party to the call deems the call to be complete, or whether the call has been disconnected inadvertently and needs to be re-established. In emergency situations, the subjective views of a CA should not determine when an emergency call should be re-established. Ultimately, the determination of whether to re-establish a 911 call should be made by either the PSAP or the relay user, and not the IP CTS provider. The IP CTS provider's only appropriate role in this situation is to provide the parties with the information necessary to re-establish the call if the parties to the call deem it necessary to do so.

Accordingly, Hamilton requests a waiver of the requirement to re-establish a disconnected IP CTS emergency call, as set forth in Section 64.604(a)(2)(v). As noted above, Hamilton is ready and able to deliver to the PSAP the relay user's name and the relay user's number. The PSAP is able to re-establish the call, in the event that the PSAP determines that the call ended prematurely. Likewise, the relay user has all the information he or she needs in order to re-establish the call, in the event that the relay user determines that the call ended prematurely – he or she may simply dial 911 again, and Hamilton will prioritize the call as required.⁹

⁹ 47 C.F.R. § 64.605(a)(2)(ii).

Waiver Standard

A Commission rule may be waived for “good cause shown.”¹⁰ In particular, a waiver is appropriate where the particular facts make strict compliance inconsistent with the public interest.¹¹ In assessing a waiver request, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.¹² Such a waiver is appropriate if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest.¹³

As demonstrated above, there is good cause for granting a waiver in this instance, because it will more effectively implement the Commission’s overall policy of encouraging rapid response times in emergency call situations. Moreover, a deviation from the general rule in this instance will serve the public interest by allowing Hamilton to more efficiently accept and handle 911 calls placed by its users. Finally, strict compliance with Section 64.605(a)(2)(v) is inconsistent with the public interest, because it leads to subjective determinations by CAs as to when such calls should be re-established. A waiver in this instance will instead place responsibility for re-establishing 911 calls where it belongs – in the hands of the PSAPs and the relay callers themselves, who are best positioned to know when such calls should be re-established.

¹⁰ *Id.* § 1.3.

¹¹ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹² *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

¹³ *Northeast Cellular*, 897 F.2d at 1166.

Conclusion

Hamilton takes its obligations to accept and handle emergency calls extremely seriously. The fundamental reason for this waiver request is to improve public safety by expediting IP CTS 911 calls, and to empower relay users and PSAPs with the ability to re-establish such calls when needed. For these reasons, Hamilton requests a waiver of portions of Section 64.605(a)(2)(iv) as noted above, and all of Section 64.605(a)(2)(v) of the Commission's rules.

Respectfully submitted,

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